

TORONTO TRAMWAY.

An Act to authorize the construction and maintenance of a Tramway from the Platform or Station known as Fassifern, on the Government Line of Railway from Sydney to Newcastle, and the Toronto Estate at Lake Macquarie. [10th October, 1889.]

Preamble.

WHEREAS the "Excelsior Land Investment and Building Company and Bank (Limited)," being a joint stock company duly registered and incorporated under and in accordance with the provisions of the "Companies Act" (hereinafter called the said Company), is possessed of and entitled to an estate called Toronto, consisting of over one thousand acres of land, at Lake Macquarie, in the parish of Awaba, in the county of Northumberland, in the Colony of New South Wales. And whereas such land is situated near to the platform or station known as Fassifern on the Government line of railway between Sydney and Newcastle, known as the Homebush-Waratah Line. And whereas it is desirable that a better mode of access from and to the said platform or station and the Company's land at Toronto should be provided for the residents, visitors, excursionists, and others. And whereas the said Company is desirous of constructing a tramway from the said Toronto Estate and connecting with the said platform or station known as Fassifern, through certain lands the property of the said Company as particularly set forth in the Schedule hereto, and also through lands believed to be the property of the Crown and of certain private persons, and the same therefore cannot be made without Legislative authority. And whereas the increased facilities of communication and traffic which would result from the construction of the said proposed tramway would be for the public convenience and benefit. And it is desirable to authorize by Legislative enactment the construction and maintenance of the said proposed tramway, subject to the provisions hereinafter contained. Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Authority to construct tramway.

1. It shall be lawful for the said Company on the terms and conditions and subject to the provisions and other enactments hereinafter contained to make and construct such tramway with such loop-

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loop-lines and sidings as may be required for the safe and convenient working and use of the said tramway, and from time to time to alter and repair the same for conveying passengers and their luggage, merchandise, goods, coal, timber, and other material to and from a point on the line of railway from Sydney to Newcastle, known as the Home-bush-Waratah Line, at or near the platform or station designated Fassifern, within the parish of Awaba, and thence by the lines described in the Schedule to this Act to the Toronto Estate, and to such portions of the Toronto Estate as may hereafter be determined. And also to ^{Power to effect} junction with ^{railway.} effect, if necessary, a junction between the said line of tramway and the said line of railway from Sydney to Newcastle, and to take and use so much of the said Crown Lands, or streets, or roadways, and so much of the lands of private persons, which are mentioned in the ^{Entry upon street &c.} said Schedule, as the said Company may require, but so that the same shall not occupy in any part of the said road or street a greater space in width than ten feet, or in the said private or Crown Lands a ^{Maximum width of lands taken for tramway.} greater space in breadth than thirty-three feet, including the support and foundations thereof; provided that the said tramway shall be constructed in a proper and workmanlike manner, and be brought into use within two years from the passing of this Act. Provided always that the ^{Gauge.} gauge of the said tramway shall be four feet eight and a half inches.

2. Such lands as shall be required shall be taken under the provisions of this Act for the purpose of the said tramway, together with such right of ingress, egress, and regress upon the adjacent land as may be necessary for the making and repair thereof, and shall be vested by virtue of this Act and without the necessity of any conveyance to the said Company for the purposes of the said tramway. Provided that no lands vested in the Railway Commissioners of New South Wales shall by virtue of this Act be vested in the said Company. Provided also that nothing herein contained shall prevent the owners of ^{Lands taken to be vested in Company without conveyance.} such adjacent lands from carrying on any mining operations underneath the said tramway which shall not interfere with the safety of the said tramway and the traffic thereon. And the said Company shall have no further right to the soil of the said lands beneath the surface than shall be requisite for the formation, support, and repair of the said tramway by cutting, embanking, or otherwise. Provided also that if in the exercise of the powers hereby granted it be found necessary to cross, cut through, raise, sink, or use any part of any road, whether carriage-road or horse-road, so as to render it impassable for or dangerous or inconvenient to the persons entitled to the use thereof, the said Company shall before the commencement of any such operations cause a sufficient road to be made instead of any road interfered with, and shall, at its own expense, maintain such substituted road in a state as convenient as the road interfered with, or as nearly as may be; and the said Company, before the said lands of ^{Works for benefit of owners.} the said owners of land respectively and the said Crown Land shall be used for any of the purposes aforesaid, shall, if required so to do, separate the same by a sufficient fence from the land adjoining thereto ^{To fence where necessary.} with such gates as may be required for the convenient occupation of such land, and shall also, to all private roads used by them as aforesaid, put up fences and gates in like manner in all cases where the same ^{Gates.} may be necessary to prevent the straying of cattle and horses from or upon the lands traversed by such roads. And shall also make and at ^{Bridges, &c.} its own expense maintain such and so many convenient bridges, arches, culverts, and passages over, under, or by the sides of, or leading to or from the tramway as may be necessary for the purpose of making good any interruptions caused by the tramway to the use of the lands through which the tramway shall be made, and such works shall be made forthwith after the part of the tramway passing over ^{such}

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Drains, &c.

such lands shall have been laid out or formed, or during the formation thereof. Also all necessary arches, tunnels, culverts, drains, or other passages, either over, under, or by the sides of the tramway, of such dimensions as will be sufficient at all times to convey the water as clearly from the lands lying near or affected by the tramway as before the making of the tramway, or as nearly so as may be, and such work shall be made from time to time as the tramway works proceed. Provided always that the said Company, their successors and assigns, shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the tramway, nor to make any accommodation works with respect to which the owners and occupiers of the land shall have agreed to receive and shall have been paid compensation. And in case of any difference between the owners or occupiers of such roads and lands and the said Company, as to the necessity for such fences and gates, bridges, arches, culverts, and passages, tunnels, drains, or other passages, such fences and gates shall be put up, and such bridges, arches, culverts, and passages, tunnels, drains, or other passages made by the said Company as any two Justices of the Peace shall deem necessary for the purposes aforesaid on application being made to them.

Tramway to be open to public use.

3. The said tramway shall be open to public use upon the payment of the tolls and charges following, that is to say:—

The said tramway shall be divided into sections of a mile in length, commencing from each terminus, which sections shall be clearly defined by posts painted white; and the fare for each passenger shall not exceed fourpence per section or any part thereof for the first two years after the said tramway shall have been opened for traffic; and thereafter shall not exceed threepence per section or any part thereof.

For parcels (passengers' personal luggage not exceeding sixty pounds in weight excepted) under one hundred weight sixpence each.

For general goods a sum not exceeding one shilling and sixpence per ton per mile or portion of a mile (exclusive of the expense of loading and unloading).

For carriage (when practicable) of live stock a sum not exceeding sixpence per head per mile each way or portion of each way (exclusive of the expense of loading or discharging). Provided that no differential charges shall be made, but that the charges shall be equal to all parties using the tramway.

No differential rates.

4. The said Company, their successors and assigns, shall maintain in perfect order and repair the said tramway where the same shall intersect or traverse all roads or streets, and the pavement of the same between the rails of the said tramway, and for the space of one foot six inches on each side of such rails where necessary, and furthermore, shall erect and maintain all necessary causeways in connection with the said tramway.

Damage done to roads to be made good.

5. If in the course of making the said tramway the said Company shall use or interfere with any road, they shall from time to time make good all damages done by them to such road, and if any question shall arise as to the damage done to any such road by the said Company, or as to the repair thereof by them, such question shall be referred to the determination of two Justices; and such Justices may direct such repairs to be made upon such road in respect of damage done by the said Company, and within such period as they may deem reasonable, and may impose on the said Company, for not carrying into effect such directions, any penalty not exceeding five pounds as to such Justices shall seem fit; and any such penalty shall be paid to the surveyor or other

Maintenance of roads.

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other person having the management of the road interfered with by the said Company, if a public road, and be applied for the purposes of such road, and if a private road the same shall be paid to the owner thereof. Provided always that the said Justices shall have regard to, and make full allowance for, any tolls that may have been paid by the said Company on such road in the course of using the same.

6. If the said tramway shall cross any public highway or parish road on a level, the said Company shall, where necessary, erect good and sufficient gates across the said tramway, on each side of such road, where the same shall communicate therewith, and such gates shall be kept constantly closed across the said tramway, or both sides of such road, except when engines or carriages or other vehicles passing along the said tramway shall have occasion to cross such road; and such gates shall be of such dimensions and so constructed as when closed to fence in the said tramway and prevent horses and cattle passing along such road from entering upon the said tramway as aforesaid, and if any person omit to shut and fasten any such gates so soon as he and the engine, carriages, or vehicles under his charge shall have passed through the same, he shall, on conviction thereof before any two Justices, forfeit and pay the sum of forty shillings.

7. It shall be lawful for the said Company, their successors and assigns, subject as aforesaid, to use and employ locomotive engines or other moving power, and carriages and waggons to be drawn or propelled thereby, and to carry and convey upon the said tramway all such passengers and goods as shall be offered for that purpose, and to charge the tolls and charges in respect thereof as above specified.

8. The said Commissioners shall at all times hereafter upon twelve hours notice in writing to the said Company, their successors and assigns, have the right to run such locomotives, carriages, and trucks, whether loaded or unloaded, on and along the said tramway, and for such period or periods, or at such time or times as the said Commissioners shall in the said notice specify. Provided always that the said Commissioners shall pay to the said Company, their successors or assigns, such rates or tolls for the exercise of such rights as aforesaid, as the Governor, with the advice of the Executive Council, shall from time to time determine.

9. The said Company, their successors or assigns, shall be responsible for all injuries caused by the improper or negligent construction, maintenance, or working of the said tramway, and all claims in respect of such negligence or improper conduct may be enforced against the said Company, their successors or assigns. Provided that the damages which may be recovered against the said Company, their successors or assigns, in respect of any such claim, shall, in addition to all other remedies for their recovery, be a first charge upon the tolls, fares, or charges charged for the carriage of passengers and goods on the said tramway, and upon all property used in and upon and necessary for the working of the said tramway.

10. The tolls shall be paid to such persons and at such places upon or near to the tramway, and in such manner, and under such regulations, as the said Company, their successors or assigns, shall appoint.

11. If any person omit to shut and fasten any gates set up at either side of the said tramway for the accommodation of the owners or occupiers of the adjoining lands, so soon as he and the carriage, cattle, or other animals under his care have passed through the same, he shall, for every such offence (upon conviction thereof before any two Justices) forfeit and pay any sum not exceeding five pounds.

12. The said Company shall not be entitled to any mines of coal, iron, slate or other minerals under any land whereof the surface is vested in them by virtue of this Act, except only such parts thereof as shall

To erect gates at level crossings.

Penalty for Company's servants omitting to shut gates.

Authority to employ locomotive engines, carriages, and other locomotive powers.

Running powers to the Commissioners for Railways.

Liability of carriers.

Toll, when, where, and to whom to be paid.

Penalty on public omitting to shut gates.

Company not entitled to minerals.

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shall be necessary to be dug or carried away in the construction of the works hereby authorized, and such mines shall not be deemed to vest in the said Company.

Compensation to be settled by arbitration.

13. If within twenty-eight days of the passing of this Act the said persons through whose land the tramway shall pass, or any of them and the said Company shall not agree as to the amount of compensation to be paid by them for the said lands belonging to the said parties, or any of them, or for any damage that may be sustained by them or him, by reason of the execution of the works, or if any other question as to compensation shall arise under this Act the amount of such compensation shall be settled by arbitrators in manner hereinafter mentioned (that is to say), unless both parties concur in the appointment of a single arbitrator, each party on the request of the other shall nominate and appoint an arbitrator to whom such dispute or other matter shall be referred; and any appointment of an arbitrator shall be under the common seal of the said Company, and under the hand of such person or persons respectively; and such appointment shall be delivered to the arbitrator or arbitrators, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made; and after any such appointment shall have been made, neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation; and if for the space of fourteen days after such dispute or other matter shall have arisen, and after a request in writing shall have been served by the one party on the other party to appoint an arbitrator, such lastmentioned party shall fail to appoint such arbitrator, then upon such failure it shall be lawful for the Attorney-General for the time being of the said Colony, on the application of the party who has himself appointed an arbitrator, to appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final and conclusive.

Proceedings in case of disability of arbitrator.

14. If before the matter so referred shall be determined any arbitrator appointed by either party shall die, or become incapable, or refuse, or for fourteen days neglect to act as arbitrator, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place, and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so, the remaining or other arbitrator may proceed alone; and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death, refusal, neglect, or disability as aforesaid.

Appointment of umpire.

15. Where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint in writing under their hands an umpire, to decide any matters on which they shall differ or which shall be referred to them under the provisions of this Act, and if such umpire shall die, or refuse, or for seven days neglect to act after being called upon so to do by the arbitrators or either of them, they shall forthwith after such death, refusal, or neglect, appoint another umpire in his place, and the decision of every such umpire upon the matters so referred to him shall be final.

Neglect to appoint umpire.

16. If in either of the cases aforesaid the arbitrators shall refuse or for seven days after request of either party to such arbitrators neglect to appoint an umpire, it shall be lawful for the Attorney-General for the time being, on the application of either party to such arbitration to appoint an umpire, and the decision of such umpire on the matters on which the arbitrators differ or which shall be referred to him under this Act shall be final.

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17. If, when a single arbitrator shall have been appointed, such arbitrator shall die or become incapable, or shall refuse, or for fourteen days neglect to act before he shall have made his award, the matters referred to him shall be determined by arbitration under the provisions of this Act, in the same manner as if such arbitrator had not been appointed.

18. If, when more than one arbitrator shall have been appointed, and when neither of them shall die, become incapable, refuse, or neglect to act as aforesaid, such arbitrators shall fail to make their award within fourteen days after the day on which the last of such arbitrators shall have been appointed, or within such extended term (if any) as shall have been appointed for that purpose by both of such arbitrators, under their hands, the matters referred to them shall be determined by the umpire to be appointed as aforesaid.

19. The said arbitrator or arbitrators, or his or their umpire, may call for the production of any documents in the possession or power of either party, which they or he may think necessary for determining the questions in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

20. Before any arbitrator or umpire shall enter upon the consideration of any matter referred to him he shall, in the presence of a Justice of the Peace, make and subscribe the following declaration, that is to say—

I, A.B., do solemnly and sincerely declare that I will faithfully and honestly and to the best of my skill and ability hear and determine the matters referred to me under the provisions of the "Toronto Tramway Act."

Made and subscribed in the presence of

C.D.

And such declaration shall be annexed to the award when made, and if any arbitrator or umpire having made such declaration shall wilfully act contrary thereto he shall be guilty of a misdemeanour.

21. All the costs of any such arbitration and incident thereto shall be in the discretion of the arbitrators, and the costs of the arbitrators shall be borne by the parties in equal proportions, unless the amount awarded shall be one-fourth less than the amount which shall have been offered by the said Company, in which case the whole costs of the arbitration, and also the costs of and incident to the said arbitration, shall be paid by the claimant. Provided that, if either party shall be dissatisfied with the costs allowed by the said arbitrators as aforesaid, the costs may be taxed by the Prothonotary or other proper officer of the Supreme Court, and the amount allowed by such officer shall be the amount of costs to be paid.

22. The arbitrator, arbitrators, or umpire shall deliver their award in writing to the said Company, who shall retain the same, and shall forthwith, on demand, at their own expense, furnish a copy thereof to the other party, and shall at all times, on demand, produce the said award, and allow the same to be inspected or examined by such party or any person appointed by him for that purpose, and the amount awarded shall be paid within sixty days after the publication of the award.

23. The submission to any such arbitration may be made a rule of the Supreme Court on the application of either of the parties.

24. No award made with respect to any question referred to arbitration under the provisions of this Act, shall be set aside for irregularity or error in matter of form.

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Compensation in
case of negligence.

25. The said Company shall make compensation and satisfaction, to be ascertained and recovered in case of difference in the manner hereby provided, for temporary, permanent, or recurring injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the owners and occupiers of the lands through which the said tramway shall pass by the non-performance or negligent performance by the said Company of any of the matters or things hereby required or authorized to be performed by them.

Compensation in
cases of temporary
possession.

26. In every case where the said Company shall take temporary possession of lands by virtue of the powers hereby granted it shall be incumbent on them within three months after entry upon such land, upon being required so to do, to pay to the occupier of the said lands the value of any crop or dressing that may be thereon and damaged or injured by such entry, as well as full compensation for any other damage of a temporary nature which he may sustain by reason of such entry, and shall also, from time to time during their occupation of the said lands, pay half-yearly to such occupier or to the owner of the lands, as the case may require, a rent to be fixed by two Justices in case the parties differ; and shall also, within twelve months after such entry, pay to such owners and occupiers, or deposit in the bank for the benefit of all parties interested, as the case may require, compensation for all permanent or other loss, damage, or injury that may have been sustained by them by reason of the exercise as regards the said lands of the powers hereby granted, including the full value of all clay, stone, gravel, sand, and other things taken from such lands.

Proceedings in
absence of owner.

27. If the owner of any lands required to be taken for the construction of the said tramway is absent from the Colony, or cannot upon diligent inquiry be found, or is under disability, or if any such lands are vested in persons who have respectively only limited or qualified interests therein, and who cannot enter into binding agreements with the said Company for the purchase of such lands or join in submitting their claims for compensation to arbitration as hereinbefore provided, the purchase money or compensation payable by the said Company in respect of such lands shall be determined by the valuation of a surveyor, to be nominated as hereinafter mentioned.

Justices to appoint
surveyor in certain
cases.

28. Upon application by the said Company to two Justices, and upon such proof as may be satisfactory to them that there is no person in the Colony or to be found who can enter into a binding contract with the said Company or join with the said Company in submitting his claims for compensation to arbitration in respect of any lands required to be taken for the construction of the said tramway, such Justices shall by writing under their hands nominate an able practical surveyor for determining such compensation as aforesaid, and such surveyor shall determine the same accordingly, and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof.

Declaration by
surveyor.

29. Before such surveyor shall enter upon the duty of making such valuation as aforesaid he shall in the presence of such Justices or one of them make and subscribe the following declaration at the foot of such nomination, that is to say—

I, A.B. do solemnly and sincerely declare that I will faithfully, impartially, and honestly, according to the best of my skill and ability, execute the duty of making the valuation hereby referred to me
A.B.

Made and subscribed in the presence of
And if any such surveyor shall corruptly make such declaration, or having made such declaration, shall wilfully act contrary thereto, he shall be guilty of a misdemeanour.

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30. The said nomination and declaration shall be annexed to the valuation to be made by such surveyor, and shall be preserved together therewith by the said Company, and they shall at all times produce the said valuation and documents on demand to all parties interested in the lands comprised in such valuation.

31. All the expenses of and incident to any such valuation shall be borne by the said Company.

32. If the amount of compensation determined by any such surveyor does not exceed the sum of fifty pounds, it shall, except in the cases where the owner is absent from the Colony or cannot be found, be paid by the said Company to the person or persons for the time being entitled to the rents and profits of lands in respect whereof the same shall be payable for their own use and benefit, or in case of the coverture, infancy, idiocy, lunacy, or other incapacity of any such persons, then such money shall be paid for their use to their respective husbands, guardians, committees, or trustees of such persons.

33. If the amount of compensation determined by any such surveyor as aforesaid exceeds the sum of fifty pounds, or in the cases where the owner is absent from the Colony or cannot be found, whether it exceeds the sum of fifty pounds or not, it shall be paid by the said Company into the hands of the Master in Equity of the Supreme Court in the matter of this Act, in trust for the parties interested in the lands in respect of which it is paid in, and a certificate from the Master of the fact of the money being so paid in shall be a sufficient discharge to the said Company for the money so paid. Provided that all monies so paid in shall be dealt with by the Supreme Court in the same manner in all respects as monies paid in under an Act passed in the twenty-first year of the reign of Her present Majesty, and entitled "*An Act for better securing Trust Funds, and for the relief of Trustees.*" And shall be subject, in all respects, to the provisions of the said Act, and all rules of the said Court made thereunder.

34. Nothing in this Act contained shall be deemed to authorize the said Company to take or enter upon any land belonging to the said Commissioners, or to alter or to interfere with the Great Northern Railway, or any of the works thereof, further or otherwise than is necessary for making the junction and inter-communication between the said railway and tramway, without the previous consent, in writing in every instance, of the said Commissioners.

35. The said Commissioners shall from time to time, at the expense of the Company, erect such signals and conveniences incident to the junction either upon their own lands or on the lands of the Company, and may from time to time appoint and remove such watchmen, switchmen, or other persons as may be necessary for the prevention of danger to, or interference with, the traffic at or near the junction.

36. The working and management of such signals and conveniences wherever situate, shall be under the exclusive regulation of the said Commissioners.

37. It shall be lawful for the said Company, their successors or assigns, from time to time, subject to the provisions and restrictions in this Act contained, to make regulations or by-laws for the following purposes, that is to say—

For regulating the times of the arrival and departure of the waggons and carriages, and the number of persons limited to be carried therein respectively. For regulating the loading or unloading of such waggons and carriages. For preventing the smoking of tobacco and the commission of any nuisance in or upon such waggons or carriages, or any of the tramway stations, waiting rooms, or premises, and generally for regulating the travelling upon, or using, and working the said

Production of valuation, &c.

Costs of valuation how borne.

Compensation not exceeding £50, how to be dealt with.

Compensation, how dealt with in absence of owner.

Not to interfere with railway.

Erection of signals, &c.

Management of signals.

Power to make by-laws.

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said tramway, and the maintenance of good order, and for regulating the conduct of the tramway officers and servants, and for providing for the due management of the said tramway, and the protection thereof, and the waggons and carriages, and waiting rooms, offices, and premises from trespass and injury.

Publication of by-laws.

Provided that such by-laws be not repugnant to the laws of the Colony or to the provisions of this Act. And the substance of such by-laws shall be painted on boards, or printed on paper and affixed to boards and places, and maintained in a legible state in some conspicuous part of every station or place of business occupied or used in connection with the tramway, according to the nature and subject matter of such by-laws, so that notice thereof may be given to all parties affected thereby, and no penalty imposed by any such by-law shall be recoverable unless the same shall have been published and kept published as aforesaid. And such by-laws shall specify penalties, which shall in no case exceed the sum of ten pounds, and may be proceeded for and recoverable under the provisions of the Act eleventh and twelfth Victoria chapter forty-three. Provided always that such by-laws must be first approved of by the Governor with the advice of the Executive Council. Provided always that the said Company, their successors and assigns, or their employés or servants shall, when using or when upon the premises of the said railway, be liable and subject to the railway by-laws.

to be approved of by the Governor;

to be binding on all parties.

Evidence of by-laws.

Railway Commissioners may appoint inspectors.

Powers of inspectors.

Accidents.

38. The production of a copy of the New South Wales *Government Gazette* containing such by-laws shall be sufficient evidence of such by-laws in all proceedings under the same.

39. The said Commissioners may from time to time appoint any person to be inspector, for the purpose of inspecting the railway and of making any inquiry with respect to the condition of the works, or into the cause of any accident, provided that no person so appointed shall exercise any powers of interference in the affairs of the Company.

40. Every Inspector under this Act shall, for the purpose of any inspection or inquiry which he is directed by the said Commissioners to make or conduct, have the following powers, that is to say:—

- (i) He may enter and inspect the tramway and all the stations, works, buildings, offices, stock, plant, and machinery belonging thereto.
- (ii) He may, by summons under his hand, require the attendance of any person who is engaged in the management, service, or employment of the Company, and whom he thinks fit to call before him and examine for the said purpose, and may require answers or returns to such inquiries for the said purpose as he thinks fit to make.
- (iii) He may require and enforce the production of all books, papers, and documents of the Company which he considers important for the said purpose.

41. Where, in or about the tramway, or any of the works or buildings connected with such tramway, or any building or place, whether open or enclosed in connection with such tramway, any of the following accidents take place in the course of working, that is to say:—

- (i) Any accident attended with loss of life or personal injury to any person whomsoever.
- (ii) Any collision where one of the trains is a passenger train.
- (iii) Any passenger train, or any part of a passenger train, accidentally leaving the rails.

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(iv) Any accident of a kind not comprised in the foregoing descriptions, but which is of such a kind as to have caused, or to be likely to cause, loss of life or personal injury, and which may be specified in that behalf by any order to be made from time to time by the said Commissioners.

The Company working such tramway shall send notice of such accident, and of the loss of life or personal injury (if any) occasioned thereby, to the said Commissioners.

42. Such notice shall be in such form and shall contain such particulars as the said Commissioners may from time to time direct, and shall be sent by the earliest practicable post after the accident takes place.

43. The said Commissioners may from time to time, by order, direct that notice of any class of accidents shall be sent to them by telegraph, and may revoke any such order. While such order is in force notice of every accident of the class to which the order relates shall be sent to the said Commissioners by telegraph immediately after the accident takes place. Failure to comply with the provisions of this section shall render the Company liable for each offence to a penalty not exceeding twenty pounds.

44. At any time the Governor, with the advice aforesaid, may, if he think fit, purchase such tramway upon giving to the said Company three months notice in writing of his intention to do so. If the amount tendered for the purchase of the property be considered inadequate by the Company, the amounts shall be ascertained by assessment in terms of the "Public Lands Acquisition Act."

45. Before commencing the said tramway by this Act authorized to be made, the said Company, their successors and assigns, shall by some qualified engineer by them to be appointed, cause to be made and taken levels and surveys of the private lands through which such tramway is to be carried, together with a map or plan of the line of the said tramway, and of the lands through which it is to pass, and a book of reference in which shall be set forth a description of the said several lands, and the names of the proprietors thereof, so far as the same shall be known, or can, with reasonable diligence, be ascertained, setting forth the bearings of such tramway, as the case may require, and the nature and quality, state of cultivation, and enclosures (if any), and the quantity of such land which may be required for the purpose of making such tramway. And the said map or plan and book of reference shall be kept at some convenient office at Toronto, and true copies thereof, signed by the manager of the said Company, for the time being, shall be deposited with Clerk of Petty Sessions at Waratah aforesaid; and such map or plan or book of reference, and such copies thereof respectively, shall be opened at all convenient times for public examination.

46. No advantage shall be taken of or against the said Company, their successors and assigns, or any interruption be given to the making of such tramway or other works on account of any omission, misstatement, or erroneous description in the book of reference; but it shall be lawful for the said Company, their successors and assigns, by themselves, their agents, officers, surveyors, servants, and workmen, to enter into and upon, and to take and use for the purpose of this Act any lands or grounds set out and described in the said map or plan, notwithstanding any such omission, misstatement, or erroneous description, in case it shall appear to any two Justices acting for the district or place in which such lands or grounds shall be situated, and be certified by writing under their hands, that such error or omission proceeds from mistake and not from fraud.

Form of notice of accident.

Notice of certain accidents to be sent by telegraph.

Power of purchase of railway by Government.

Before commencing tramway survey to be made and book of reference.

Map and book of reference to be open for public inspection.

Omission in book of reference not to impede making the tramway, &c.

Toronto Tramway.

Service of notices on
owners of lands.

47. All notices required to be served by the said Company, their successors and assigns, upon the parties interested in or entitled to sell any such lands, shall either be served personally on such parties or left at their last usual place of abode (if any such can after diligent inquiry be found), and in case any such parties shall be absent from the Colony, or cannot be found after diligent inquiry, shall be left with the occupier of such lands, or if there be no such occupier, shall be affixed upon some conspicuous part of such lands.

Recovery of
penalties.

48. All penalties and forfeitures imposed under this Act or any by-laws or regulations made in pursuance thereof shall be recoverable in a summary way before a Stipendiary or Police Magistrate or any two Justices of the Peace.

Short title.

49. This Act may be cited as the "Toronto Tramway Act of 1889."

SCHEDULE.

All those several portions of land described hereafter, situate in the parish of Awaba, county of Cumberland, Colony of New South Wales: Commencing at a point on the eastern side of the Great Northern Railway, at eighty-seven miles fifty-two chains, being about one and a half chains north of the Fassifern Railway Station, and bearing thence south-easterly about nine chains ten links along a Government road; thence through Government reserve one hundred and five bearing south-easterly and easterly about fifteen chains seventy-five links; thence easterly across Wangi Road one chain; thence easterly through lots two, three, and four, section D, of Lorne Township (private township, the property of the "Excelsior Land Investment and Building Company and Bank, Limited"), six chains; thence south-easterly across Awaba-street about one chain fifty links; thence bearing southerly through lot twenty-three, section D, township of Lorne (the property of the Excelsior Building Company), two chains fifty links, across a lane twenty links, through lot fourteen, section D, township of Lorne (the property of the Excelsior Building Company), two chains fifty links, across Tervalba-street one chain, and along Mellie-street about eleven chains fifty links, and across Narara-street one chain; thence southerly, south-westerly, and southerly through Government reserve forty-eight about thirty-eight chains twenty links; thence southerly along a Government road about three chains fifty links; thence south-easterly through portion fifteen, parish of Awaba, about twenty-two chains eighty links; thence southerly across a Government road one chain; thence south-easterly through portion four, parish of Awaba (the property of the Excelsior Building Company), about thirty-seven chains twenty links; thence south-easterly across Stony Creek two chains eighty links; thence south-easterly through Toronto Estate (the property of the Excelsior Building Company) about eighteen chains eighty links, across Cary and Bath Streets about one chain seventy links, through the hotel reserve, Toronto Estate, about twenty-eight chains sixty links, and across Toronto Boulevard about one chain seventy-five links, being the present terminus, and opposite the Toronto Pier, a total distance of about two miles forty-eight and a half chains.